

MEMO ENDORSE**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

_____)	JUDGE KEENAN
)	
IN RE: FOSAMAX)	
PRODUCTS LIABILITY LITIGATION)	
MDL No. 1789)	Plaintiff: <u>Pauline Hammerly</u>
)	
)	SDNY Case No. 1:08-CV-0953-JFK

**MOTION FOR SUBSTITUTION OF PARTIES
AND MEMORANDUM OF LAW IN SUPPORT**

Robert C. Hammerly, husband of Pauline Hammerly, by and through undersigned counsel, and pursuant to Federal Rule of Civil Procedure 25, respectfully moves for the entry of an Order substituting himself, as Special Administrator of the Estate of Pauline Hammerly, deceased, as the Plaintiff in this action, and states as follows:

1. Counsel was noticed during the pendency of this matter that on January 10, 2013, Plaintiff Pauline Hammerly passed away.
2. Plaintiff's action did not extinguish upon her death. However, under the law of Plaintiff's resident state, only a legal representative may sue or be sued on behalf of the Estate and its survivors.
3. On August 20, 2013, Robert C. Hammerly, husband of Pauline Hammerly, was appointed as the Special Administrator of Ms. Hammerly's estate by the District Court, Clark County, Nevada (See Exhibit A).
4. If substituted as Plaintiff, Robert C. Hammerly, as Special Administrator of the Estate of Pauline Hammerly, will pursue this claim on behalf of the Estate and all of its survivors.

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DATE FILED 12-9-13

WHEREFORE, counsel requests entry of an Order substituting Robert C. Hammerly as Special Administrator of the Estate of Pauline Hammerly, deceased, for all purposes concerning further prosecution of this claim.

Respectfully submitted, this 6th day of December, 2013

LEVIN, PAPANTONIO, THOMAS, MITCHELL,
RAFFERTY & PROCTOR, P.A.


BRANDON L. BOGLE, ESQ.
TIMOTHY M. O'BRIEN, ESQ.
LEVIN, PAPANTONIO, THOMAS, MITCHELL,
RAFFERTY & PROCTOR, P.A.
316 South Baylen Street, Suite 600 (32502)
P. O. Box 12308
Pensacola, Florida 32591
Telephone(850) 435-7042
FAX (850) 436-6042
Attorneys for Plaintiff

The application is granted.

SO ORDERED.

Dated: New York, N.Y.
Dec. 9, 2013



U.S.D.J.